No. 87-920

In The

Supreme Court of the United States

October Term, 1987

NATALIE MEYER, in her official capacity as Colorado Secretary of State, and DUANE WOODARD, in his official capacity as Colorado Attorney General,

Appellants,

v.

PAUL K. GRANT, EDWARD HOSKINS, NANCY P. BIGBEE, LORI A. MASSIE, RALPH R. HARRISON, COLORADANS FOR FREE ENTERPRISE, INC., a Colorado corporation,

Appellees.

BRIEF FOR APPELLANTS

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QUESTION PRESENTED

In the interest of assuring that only initiative measures with a significant modicum of support reach the ballot, may Colorado prohibit payment of petition circulators as long as it otherwise permits unlimited contributions and expenditures?

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OPINIONS BELOW

The *en banc* opinion of the Tenth Circuit Court of Appeals, is reported at 828 F.2d 1446 (10th Cir. 1987). The decisions of the district court and the Panel decision of Tenth Circuit are reported at 741 F.2d 1210 (10th Cir. 1984). The decisions are reprinted in the jurisdictional statement.

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JURISDICTION

The appellees (hereinafter referred to as the proponents) brought this action against appellants (hereinafter referred to as the "state" or "Colorado") pursuant

to 28 U.S.C. sec. 1331 (1980), charging that the prohibition against payment of initiative petition circulators contained in Colo. Rev. Stat. sec. 1-40-110 (1980) violated their rights under U.S. Const. amend. I. The federal district court sustained the constitutionality of section 1-40-110 on July 3, 1984. Its judgment was initially affirmed by a panel of the Tenth Circuit on July 31, 1984. The Tenth Circuit, sitting *en banc*, reversed on September 2, 1987. The state filed a Notice of Appeal regarding the *en banc* decision on October 6, 1987. An Amended Notice of Appeal was filed on October 23, 1987. This appeal was filed on November 23, 1987. Probable jurisdiction was noted on January 19, 1988. The Supreme Court has jurisdiction pursuant to 28 U.S.C. sec. 1254(2) (1966), which provides for an appeal to the Supreme Court when a federal court declares a state statute to be unconstitutional.

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CONSTITUTIONAL PROVISIONS AND STATUTES

A. First Amendment, United States Constitution

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

B. Fourteenth Amendment, United States Constitution

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

C. Colo. Const. art. V, sec. 1(6)

To each of such petitions . . . shall be attached an affidavit of some registered elector that each signature thereon is the signature of the person whose name it purports to be and that, to the best of the knowledge and belief of the affiant, each of the persons signing the petition was, at the time of signing, a registered elector. Such petition so verified shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are registered electors.

D. Colo. Rev. Stat. sec. 1-40-110 (1980)

Any person, corporation, or association of persons who directly or indirectly pays to or receives from or agrees to pay to or receive from any other person, corporation, or association of persons any money or other thing of value in consideration of or as an inducement to the circulation of an initiative or referendum petition or in consideration of or as an inducement to the signing of any such petition commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S. (1973).

E. 1941 Colo. Sess. Laws 486, H.B. 947, sec. 8.

Provided further that it is not the intention of this act to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but rather to safeguard, protect and preserve inviolate for them these modern instrumentalities of democratic government.

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STATEMENT OF THE CASE

Natalie Meyer, as Colorado Secretary of State, is charged with the administration and enforcement of the initiative and referendum laws. Colo. Rev. Stat. sec. 1-40-119 (1986 Supp.). Duane Woodard, as Attorney General, may institute criminal proceedings if a violation of the initiative and referendum laws has occurred. Colo. Rev. Stat. sec. 1-40-119 (1986 Supp.).

Colorado is one of 23 states to allow its citizens to place propositions on the ballot through the initiative process. (Joint Appendix, p. 100-101.) Colo. Const. art. V, sec. 1; Colo. Rev. Stat. secs. 1-40-101 to 119 (1980 & 1986 Supp.). Under Colorado law, proponents of an initiative measure must submit the measure to the State Legislative Council and the Legislative Drafting Office for review and comment. The draft is then submitted to a three member title board, which prepares a title, submission clause and summary. After approval of the title, submission clause and summary, the proponents of the measure then have 6 months to obtain the necessary signatures, which must be in an amount equal to at least 5 percent of the total number of voters who cast votes for all candidates for the Office of Secretary of State at the last preceding general election. If the signature requirements are met, the measure will appear on the ballot at the next general election. Colo. Rev. Stat. secs. 1-40-101 to 105 (1980 & 1986 Supp.); *Dye v. Baker*, 143 Colo. 458, 354 P.2d 498, 500 (1960).

The petition circulators must be registered electors. Colo. Const. art. V, sec. 1(6). They are required to sign an affidavit stating that each signature is the signature of

the person whose name it purports to be and that, to the best of their knowledge and belief, each person signing the petition is a registered elector. Colo. Rev. Stat. sec. 1-40-109 (1986 Supp.). Colo. Rev. Stat. sec. 1-40-110 (1980) prohibits payment of petition circulators. A violation of section 1-40-110 is a class 5 felony.

In 1984, the proponents submitted an initiative measure to deregulate the Colorado trucking industry. The proponents wanted to pay circulators and brought suit challenging the constitutionality of the prohibition against payment of petition circulators. They asked the trial court to declare unconstitutional section 1-40-110 on the ground that it violated their First Amendment right to political speech. They also asked the district court to enjoin enforcement of section 1-40-110.

The proponents argued that paying petition circulators would give them more free time and provide an incentive to get more signatures. One proponent testified that a circulator could take more time away from his job if he were paid. (Joint Appendix, pp. 19, 25.) Another testified that he would like to be able to pay circulators so that he could devote more time to his work. (Joint Appendix, p. 47.) A third proponent stated that paid petition circulators have more incentive to obtain signatures. (Joint Appendix, p. 39.)

The state argued that the prohibition allowed Colorado to maintain both the integrity and the grassroots character of the initiative process. The testimony indicated that the initiative and referendum process was implemented to negate the influence of monied special inter-

ests and to assure that the interests of the general populace would again assume supremacy. (Joint Appendix, p. 69.)

The state also showed that Colorado's signature requirement was more liberal than the signature requirements in at least 14 of the 17 states that allow a constitutional amendment to be adopted through the initiative process. (Joint Appendix, pp. 72-73.) Of the 23 states that have a statewide initiative process, Colorado ranked number 4, in the number of initiatives on the ballot in the years preceding 1969, ranked number 2 in the years between 1969 and 1979, and ranked in the top four in the years 1980 to 1982. (Joint Appendix, pp. 76-78, 103.) For the years 1978, 1980, and 1982, the percentage of petitions reaching the ballot was equal to or above the national average. (Joint Appendix, pp. 54-56.)

The trial court held that section 1-40-110 was constitutional. It concluded that the First Amendment rights of the proponents were not affected and that, even if First Amendment rights were implicated, the state had a compelling interest in maintaining the integrity and grassroots nature of the initiative process.

On appeal, a panel of the Tenth Circuit adopted the district court's opinion. Upon rehearing *en banc* the Tenth Circuit reversed the district court's decision, holding in a 6-2 decision that the prohibition unconstitutionally restricted the First Amendment rights of the proponents.

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SUMMARY OF THE ARGUMENT

Colorado's prohibition against payment of petition circulators does not violate the First Amendment. Colorado has the right to limit the initiative measures on the ballot to those measures which can show a significant modicum of support. The purpose of the initiative is to enhance control of democratic institutions by the general populace. The petition circulator is the only person who validates signatures. The prohibition affects only the act of paying someone who is performing a public function. It serves the compelling interest of protecting the integrity of the process by eliminating the incentive to pad petitions and by removing the appearance of corruption. It also serves the compelling interest of preserving the grassroots nature of the process by assuring that the number of circulators roughly reflects actual support for the initiative measure.

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ARGUMENT

I. The Prohibition Against Payment of Petition Circulators Does Not Violate The First Amendment.

A. History of the Initiative

The initiative, as a tool of direct democracy, arose during the height of the Progressive movement, lasting from approximately 1898-1919. During this period distrust of big business, and particularly political organizations, was underscored by a firm belief that government should be in the hands of the people; that political bosses and machines should be overthrown; and that through re-

forms, democracy, liberty and rule of law would be achieved. *See* Magleby, David B., *Direct Legislation: Voting on Ballot Propositions in the United States*, Johns Hopkins University Press, 1984, pp. 21-22.

The movement toward direct democracy in the early part of the century was a western political phenomenon. South Dakota was the first state to adopt direct legislation in 1898; in 1902 Oregon became the first state to vote on an initiative measure. Twenty-two of the states that have direct legislation adopted it during the progressive era (1898-1919).

Colorado adopted the initiative and referendum in 1910. The history behind Colorado's adoption of the initiative and referendum tracks the history in other states. P. Starr, *The Initiative and Referendum in Colorado* 9-21 (August 11, 1958) (masters thesis) (reviewing history of Colorado's adoption of initiative procedure).[1] Under the Colorado system, the Legislature may pass laws which enhance the power of the initiative and referendum. *In re Interrogatories Propounded by Senate*, 189 Colo. 1, 536 P.2d 308, 315 (1975).

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[1]Governor Shafroth, a chief proponent, noted

> No matter what the cause may be it is clear from a survey of legislative history of the various states of the Union that legislatures, upon certain matters, do not represent the will of the people who elected them . . . the law of the Initiative and Referendum places the government nearer to the people, and that has always been the aim of the framers of all republican forms of government.

P. Starr, *The Initiative and Referendum in Colorado*, p. 11. (The thesis is available at the University of Colorado library.)

Colorado, like many other states, requires that the proponents of an issue must obtain a significant showing of support to obtain a place on the ballot. The petition requirement imposes a "dual intensity check." L. Sirico, *The Constitutionality of the Initiative and Referendum*, 65 Iowa L. Rev. 637, 661 (1980). The proponents must be willing to commit themselves to obtain the required signatures, and the voters must be so dissatisfied that they will sign the petitions. Underlying this process is the assumption that people will debate the issue in a manner similar to a town meeting. The petition process was envisioned as a conduit for the expression of voters' dissatisfaction.

As with many movements, the implementation of the ideal diverged from the ideal's goals. Over the years, the simplistic view of the educated enlightened voter espoused by the Progressive movement became subverted by the proliferation of special interest groups which have used the initiative process to accomplish legislation favorable to their causes. *See* Magleby, "Plebiscitary Democracy: The Initiative and Referendum in American Politics," *National Center for Initiative Review*, 27 Dec. 1983. Non-representative money interests came to dominate. Hofstadter, Richard, *The Age of Reform* p. 266 (Knopf 1974).

Like other states, Colorado experienced the distortion of the ideal. Some of the distortion emanated from the role of the paid petition circulator. The petition circulator was envisioned as a type of election judge. *See Sturdy v. Hall*, 143 S.W.2d 547, 550 (Ark. 1940). In Colorado, the role of the petition circulator is codified in the Colorado Constitution. Colo. Const. art. V, sec. 1(6). The petition

circulator must be a registered elector who must sign an affidavit that each signature on the petition is the signature of the person whose name it purports to be, and that to the best of his knowledge and belief, each of the persons signing the petition is a registered elector. Prior to 1941, Colorado had no law prohibiting payment to petition circulators. As a result, petition circulators were paid to obtain signatures. The payment of circulators was challenged as inherently fraudulent in the case of *Brownlow v. Wunsch*, 103 Colo. 120, 83 P.2d 775 (1938). The Colorado Supreme Court found that payment to petition circulators was not prohibited by either statute or constitution. However, it impliedly expressed reservations about the effects of such payment on the integrity of the process. It stated:

> To the extent that the fraud charged is premised on the advertisement for circulators and the latter being paid for names procured, without reference to our views as to the ethics of such procedure, it is sufficient to say that this practice is not prohibited by either the constitution or statutes.

Id. at 782.

Pursuant to its constitutional duty to secure the purity of elections and guard against abuse of the elective franchise, *see* Colo. Const. art. VII, sec. 11 and *Case v. Morrison*, 118 Colo. 517, 197 P.2d 621, 623 (1948), and its duty to enhance the initiative process, *In re Interrogatories Propounded by Senate, supra*, the Legislature, apparently in response to abuses of the sort chronicled in *Brownlow*, passed the prohibition against payment of circulators.[2] *See* H.B. 947, 1941 Colo. Sess. Laws 486. The Legislature stated the intent behind the 1941 reforms in section 8 of H.B. 947:

> Provided further that it is not the intention of this act to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but, rather to safeguard, protect and preserve inviolate for these modern instrumentalities of democratic government.

Id.

B. Payment of Circulators Is Not Protected by the First Amendment

The Tenth Circuit ruled that payment of petition circulators constitutes pure speech. Applying the strict scrutiny test, it concluded that the state did not have a compelling interest and that it did not impose the least restrictive means. The Tenth Circuit's analysis is flawed. The prohibition of payment regulates the conduct of a state function only. Payment of petitioner circulators is not a right which is protected by the First Amendment. Furthermore, even if the First Amendment values are im-

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[2]Several experts have commented on the distorting impact of paid petition circulators and have suggested that paid petition circulators should be either restricted or banned in order to preserve the spirit of the direct legislation process. A.D. Ertukel, "Debating Initiative Reform: A Summary of the Second Annual Symposium on Elections at the Center for the Study of Law and Politics," *Journal of Law and Politics*, 313, 318 (1984). *See also* Berg and Holman, "Losing the Initiative: The Impact of Rising Costs on the Initiative Process," *Western City*, pp. 27, 30, 44, June 1987.

plicated, the prohibition can withstand the application of any tests, including strict scrutiny.[3]

The Colorado constitution establishes the petition circulator as the person with the public duty to determine the validity of the signatures of the persons who sign the petitions. It is important to note that Colorado does not require any other signature validation by the state. The only persons who validate signatures are the petition circulators. The prohibition against paying petition circulators is significant because it removes the appearance of possible corruption from the only persons who validate the signatures. The position is obviously governmental in nature. The verification of signatures does not constitute speech, and the prohibition against payment of petition circulators constitutes nothing more than the prohibition against payment for the act of verifying signatures. The fact that a person voluntarily links his conduct with a speech component does not transform the conduct into speech. *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 298 n.7 (1984). If a person's First Amendment rights interfere with his public duties, then the First Amendment rights are not protected. *Branti v. Finkel*, 445 U.S. 507, 517-18 (1980).

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[3]The Tenth Circuit ignored the history and concluded that this case is controlled by *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam), *Federal Election Commissioners v. National Conservative Political Action Committee*, 470 U.S. 480 (1985), *Citizens Against Rent Control/Coalition For Fair Housing v. City of Berkeley, California*, 454 U.S. 290 (1981) and *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978). These cases are inapposite. Each of these cases addressed circumstances in which a law placed an absolute cap on total expenditures or prevented participation in the political process. None of these cases addressed a situation in which narrow limitations were placed on persons who were performing a quasi-public function.

C. Even If the First Amendment Provides Protection, the Prohibition Is Constitutional

Even if speech and conduct are intertwined, the prohibition is still constitutional. The First Amendment forbids the regulation of speech by the government in ways that favor some viewpoints or ideas at the expense of others. *Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984). A viewpoint-neutral regulation must be reviewed in accordance with the test set forth by the Court in *United States v. O'Brien*, 391 U.S. 367, 377 (1968):

> [A] government regulation is sufficiently justified if it is within the constitutional power of the Government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest.

A restriction may be invalid if the remaining modes of communication are invalid. When speech and conduct are linked, First Amendment values must be balanced against competing societal interests. *Members of City Council v. Taxpayers for Vincent*, 466 U.S., at 805-07.

When analyzing the relationship between speech and conduct, consideration of the historical genesis of the initiative and the right of Colorado to control its electoral and political processes are crucial factors. Writing about the initiative, Justice White has noted:

> From its earliest days, it was designed to circumvent the undue influence of large corporate interests on governmental decisionmaking . . . . The role of the in-

> itiative . . . cannot be separated from its purpose in preventing the dominance of special interests. That is the very history and purpose of the initiative in California and similarly it is the purpose of ancillary regulations designed to protect it. Both serve to maximize the exchange of political discourse.

Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290, 310-11 (1986) (White, J. dissenting).

The Court has recognized the sovereign authority of the states over their electoral and political processes which are not governed by the federal constitution and has generally granted substantial deference to the electoral methods selected by the state. *Rivera-Rodriguez v. Popular Democratic Party*, 457 U.S. 1, 8-9 (1982). If the state has authority to create a right, then the state also has the authority to place limitations on the scope of that right. *Posadas de Puerto Rico Associates v. Tourism Co.*, 106 S. Ct. 2968, 2979 (1986). The First Amendment does not authorize the Supreme Court to review the manner in which a state governs itself unless it significantly impairs First Amendment interests. *Clements v. Fashing*, 457 U.S. 957, 972-73 (1982).

The initiative is not a right which is conferred by the federal constitution. The people of the state of Colorado reserved to themselves the right of the initiative and referendum. The people delegated authority to the state legislature to establish procedures to assure the vitality of the initiative process. The legislature, pursuant to that authority, prohibited payment to petition circulators to enhance and protect the initiative process. The legislature, reacting to both potential and proven deficiencies, *see Munro v. Socialist Workers Party*, 107 S. Ct. 533, 538 (1986), properly enacted safeguards to preserve the initiative process. The Legislature intended to broaden political discourse, and its restriction was no greater than necessary to achieve its purpose.

Even if the Court ignores the conduct component, the speech component constitutes nothing more than speech by proxy. In *California Medical Association v. Federal Election Commission*, 453 U.S. 182 (1981) (Marshall, J., plurality opinion), the Court determined that money contributed to others, who are independent of the contributor, constitutes speech by proxy. *Id.* at 196-197. Restrictions on such contributions are exceptionally minimal when the amount of money that may be spent is otherwise unlimited *Id.* at 195. Under these circumstances, speech is not entitled to full First Amendment protection, and the state must show only a rational basis. *Id.* at 197. The analysis in *California Medical Association*, controls the case at bar. The uncontradicted testimony was that the proponents wished to hire persons to speak on their behalf and to induce their surrogates to enthusiastically advocate their positions to the public.[4]

Even if the Court concludes that this is a "pure speech" case, the prohibition is still constitutional. In

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[4]Contrary to the facts in *Federal Election Commission v. National Conservative Political Action Committee*, 470 U.S. 480, 495 (1985), this case does not involve many small contributors who want to add their voices to the message. It is essentially an attempt to substitute one voice for another.

a petition circulator case involving candidate ballot access, the Seventh Circuit held that the test set forth in *Anderson v. Celebrezze*, 460 U.S. 780 (1983), is the appropriate test. *Citizens for John Moore v. Board of Election Commissioners*, 794 F.2d 1254, 1260 (7th Cir. 1986). In *Anderson v. Celebrezze, supra*, 460 U.S. at 789, the Court established a functional test:

> Constitutional challenges to specific provisions of a State's election laws therefore cannot be resolved by any "litmus-paper test" that will separate valid from invalid restrictions. (Citation omitted) Instead, a court must resolve such a challenge by an analytical process that parallels its work in ordinary litigation. It must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justification for the burden imposed by the rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of these interests, it must also consider the extent to which those interests make it necessary to burden the plaintiff's rights. . . . The results of this evaluation will not be automatic; as we have recognized, there is "no substitute for the hard judgments that must be made." (Citations omitted).

The prohibition has, at worst, a *de minimus* impact on First Amendment rights. It does not prevent the proponents from speaking out on behalf of the issues or requesting others to speak on their behalf. Other than the prohibition, the amount of money and the areas in which money may be spent are unlimited. *Clements v. Fashing*, 457 U.S. 957, 972 (1982).

The state's interests are compelling. The state must insure that the initiative measure has a significant modi-

cum of support and that the signatures on the petition reflect actual support rather than the influence of a few, powerful special interests. The history of the direct legislation movement, both in Colorado and nationally, shows a strong interest in removing the undue influence of wealth from the process. Recently, the Court reaffirmed the legitimacy of restrictions on corporate contributions on the ground that the potential for unfair deployment of wealth for political purposes "may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas." *Federal Election Commission v. Massachusetts Citizens for Life*, 107 S.Ct. 616, 628 (1986).

The same rationale underlies the prohibition. Historically, proponents intended to flood the political market with paid petition circulators to gain signatures. The number of petition circulators would not reflect grassroots support for placing the issue on the ballot; it would reflect only the availability of resources of those persons who can afford to pay petition circulators.[5]

The interest in requiring a significant modicum of support is the avoidance of confusion, deception and frustration of the democratic process. *Munro v. Socialist Workers Party*, 107 S. Ct. 533, 537 (1986); *Jenness v. Fortson*, 403 U.S. 431, 442 (1974). Although Colorado has a signature requirement, the use of money to hire petition circulators could skew the initiative process. By prohibiting payment of petition circulators, Colorado insures that the number of petition circulators roughly reflects actual sup-

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[5]See footnote 2.

port for the proposal. If there are few people who are sufficiently committed to circulate petitions, then the issue does not have enough underlying support and should not be placed on the ballot.

The state also has a compelling interest in protecting the integrity of the initiative process. Prohibiting payment to those persons who are solely responsible for the verification of signatures on the petition avoids the appearance of corruption. The avoidance of the appearance of impropriety is central to maintain integrity and confidence in the initiative process. *Buckley v. Valeo*, 424 U.S. 1, 27 (1976).

The Tenth Circuit concluded that the imposition of criminal penalties was the least restrictive method. This Court has already disposed of this argument. In *Buckley v. Valeo*, 424 U.S. at 27-28, the Court stated:

> Appellants contend that the contribution limitation must be invalidated because bribery laws and narrowly drawn disclosure requirements constitute a less restrictive means of dealing with "proven and respected quid pro quo arrangements." But laws making criminal the giving and taking of bribes deal only with the most blatant and specific attempts of those with money to influence governmental actions. And while disclosure requirements serve the many salutary purposes discussed elsewhere in the opinion, Congress was surely entitled to conclude that disclosure was only a partial measure and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions. . . .

The state has employed the least restrictive means. As noted earlier, the amount of money which proponents

can expend is unlimited. The statute in no way prohibits interested citizens from spending unlimited amounts of money or from associating at will to express their views. The proponents can buy time on television or radio. They can purchase advertising space in newspapers. They can hire unlimited numbers of persons as advocates to canvas neighborhoods or to speak at functions. They can distribute leaflets. They can approach citizens and ask them if they are registered voters. They can even direct them to the petition circulators.

The evidence in this case shows that the prohibition does not impede access to the ballot or the likelihood of success when proposed measures reach the ballot. Of the 23 states that had a statewide initiative process at the time that the case was tried, Colorado ranked No. 4 in the number of initiatives on the ballot in the years preceding 1969, No. 2 in the years between 1969 and 1979 and in the top four in the years 1980 to 1982. The evidence also establishes that for the years 1978, 1980 and 1982, the percentage of petitions reaching the ballot was equal to or above the national average. Colorado's signature requirement is less stringent than the signature requirements in at least 14 of the 17 states that allow adoption of a constitutional amendment to be adopted through the initiative process.

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CONCLUSION

The purpose of the prohibition against payment of petition circulators is to protect the integrity of the initiative process and to insure that only measures which achieve significant grassroots support reach the ballot. Without the prohibition, unrepresentative but influential interests could place matters on the ballot which do not reflect popular support. The state can regulate the initiative ballot to assure that only matters with a significant modicum of support are placed before the voters at an election.

Respectfully submitted,

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